

ARKANSAS COURT OF APPEALS

DIVISION IV
No. CACR 08-1158

KEELEY S. WHITE

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered MAY 13, 2009

APPEAL FROM THE FAULKNER
COUNTY CIRCUIT COURT,
[NO. CR-2003-1657 & CR 2005-1344]

HONORABLE DAVID LEE
REYNOLDS, JUDGE

AFFIRMED

RITA W. GRUBER, Judge

On May 17, 2004, Keeley S. White pled guilty to the felony offense of financial identity fraud and was sentenced to sixty months' probation. On September 27, 2006, she pled guilty to a misdemeanor hot-check violation and a felony hot-check violation, for which she received probations of twelve and forty-eight months. In a petition for revocation, filed on May 28, 2008, the State alleged that White had violated conditions of her probation by 1) failing to report as directed; 2) violating laws; 3) failing to pay fines, fees, court costs, etc.; 4) having a positive drug screen; 5) failing to abstain from alcohol; and 6) failing to complete community service work. After conducting a hearing on June 9, 2008, the trial court orally granted the State's petition to revoke and sentenced White to sixty months in the Arkansas Department of Correction. A written order of revocation was entered the same day.

White appeals the order of revocation, raising four points. She contends that the trial

court erred in revoking her probation on the grounds of failing to report, violating laws, failing to pay, and failing to complete community service. The State responds that White cannot prevail on appeal because she does not challenge the sufficiency of the evidence with respect to having a positive drug test and using alcohol. We agree, and we affirm the revocation.

In order to sustain a revocation, the State need show only one violation of probation. *Phillips v. State*, 101 Ark. App. 190, 272 S.W.3d 123 (2008). Where multiple grounds were alleged and the trial court makes no specific findings as to which violation it relied upon, we will affirm the revocation if there is sufficient evidence to establish that the appellant committed any one violation. *E.g., Doyle v. State*, ___ Ark. App. ___, ___ S.W.3d ____ (Feb. 18, 2009).

In the present case, the trial court ruled as follows from the bench:

I'm impressed that she has improved her conditions somewhat, that she's going to school and doing well. I applaud her efforts to try to change her life and get this behind her. The problem is she's doing it on her own terms and not the terms of probation. . . . We've got victims that are still owed \$20,000. It appears even if you discount the charge in Drew County that is stolen checks,¹ there are still others. I'm going to revoke her probation. . . .

The State notes that White's points on appeal go beyond the court's findings about her failure to make payments and acquiring hot-check charges while on probation. Pointing to the court's finding that White attempted rehabilitation "on her own terms," the State agrees that

¹White testified at her hearing that she was not guilty of hot-check charges against her in Drew County subsequent to probation, explaining that the checks were written after someone had stolen checks from her car and she had closed the account.

the ruling encompassed more than those two findings.

Where the sufficiency of the evidence is challenged on appeal from an order of revocation, we will not reverse the trial court's decision unless its findings are clearly against the preponderance of the evidence. *Jones v. State*, 52 Ark. App. 179, 916 S.W.2d 766 (1996). In making our review, we defer to the superior position of the trial court to determine questions of credibility and the weight to be given to the evidence. *Id.*

Here, although the court did not specify the charges upon which it was basing the revocation, the evidence supports its order of revocation. White admitted at the hearing that she had purchased and consumed beer while on probation, and her probation officer testified that she had confessed to drinking alcohol and tested positive for marijuana. This evidence is sufficient to support a finding that White violated conditions of her probation by having a positive drug screen and failing to abstain from the use of alcohol. We cannot say that the trial court's decision to revoke White's probation was clearly contrary to the preponderance of the evidence.

Because the State need prove only one basis for revocation, we do not address White's challenges to the sufficiency of the evidence on four other grounds. The revocation is affirmed.

Affirmed.

PITTMAN and ROBBINS, JJ., agree.